

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA

Plaintiff,

v.

Case No. 1:21-CR-0597 JB

SEVERANO CEBALLOS MARTINEZ,

Defendant.

FIRST UNOPPOSED MOTION TO EXTEND THE DEADLINE FOR TRIAL AND FILING

MOTIONS

COMES NOW Defendant, Severano Ceballos Martinez, by and through his counsel, TMP Legal LLC., (Timothy Padilla) and hereby moves the Court to extend the time for trial to commence in the above-captioned court matter for ninety (90) days, and any related deadlines. As grounds, Defendant states the following:

1. The indictment was filed in this matter on April 23, 2021.
2. The arraignment was held on May 6, 2021.
3. Defense counsel has received some discovery, and has not had the opportunity to discuss the case or review discovery with Mr. Martinez due to his quarantine period.
4. This is the first request for continuance in this matter.
5. Due to the continued quarantine of Defendant and visitations being canceled at the Grants Facility, Counsel has been unable to communicate with the Defendant to determine whether pretrial motions are essential for the adequate defense of the Defendant.
6. A continuance will allow counsel to receive more discovery, if necessary, and to discuss any disposition of Mr. Martinez' case, and file any necessary pretrial motions.
7. Failure to grant a continuance could deny Defendant time to adequately resolve his respective case.

8. Pursuant to 18 U.S.C. §3161(h)(7)(A), this request is in the best interest of justice and outweighs the interest of the parties and the public in a speedy trial.

9. Pursuant to 18 U.S.C. §3161(h)(7)(A) the parties agree that the time between the entry of the order of continuance and the new trial setting shall be excluded for purposes of the Speedy Trial Act.

10. Conducting a trial based on the facts above would be contrary to the interest of justice.

11. Good grounds exist for the continuance of the current trial setting and extension of the motions deadline. *U.S. v. Toombs*, 574 F3d 1268 (10th Cir. 2009).

12. Based upon a balancing of those considerations, the interests of the party would not be prejudiced by the continuance. Indeed, the interests of justice would be substantially advanced by continuing trial, as well as all deadlines for at least ninety (90) days for the reasons set forth above.

13. Counsel also respectfully submits that continuing the trial and all deadlines for at least ninety (90) days, as requested herein, is necessary to provide effective assistance of counsel to Mr. Martinez. A denial of extension and continuance would deny Mr. Martinez the time required to assist undersigned counsel in a review of the discovery and to prepare a proper defense to the charges. It would also deny the government and Mr. Martinez an opportunity to pursue a potential pre-trial resolution of this matter.

14. Concurrence in the relief sought herein was sought from AUSA Samuel A. Hurtado, and Mr. Hurtado concurs in such relief.

WHEREFORE, Defendant Severano Ceballos Martinez respectfully requests that the court:

1. Continue the trial setting in this matter, pursuant to 18 U.S.C. §3161(h)(1)(f), 18 U.S.C. §3161(h)(8)(A), and 18 U.S.C. §3161(h)(7)(B)(iv) for a period of not less than ninety (90) days;

2. Extend all all related motions deadlines; and
3. Grant any further relief the Court deems necessary an appropriate.

Respectfully submitted:

/s/Timothy M. Padilla

Timothy M. Padilla

Counsel for Defendant

1412 Lomas Blvd. N.W.

Albuquerque, NM 87104

THIS CERTIFIES THAT A TRUE AND CORRECT COPY OF THE FOREGOING PLEADING WAS SERVED UPON THE OFFICE OF THE UNITED STATES ATTORNEY AND ALL PARTIES ENTITLED TO NOTICE BY ELECTRONIC FILING ON THIS 25TH DAY OF JUNE, 2021.

/s/Timothy M. Padilla

Timothy M. Padilla, Esquire.